

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6478

BILL NUMBER: HB 1001

SUBJECT: Terrorism.

DATE PREPARED: Feb 22, 2002

BILL AMENDED: Feb 21, 2002

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It establishes the Counterterrorism and Security Council.

(B) It establishes the Construction Industry Disaster Volunteer Program.

(C) It allows a person to use reasonable force to stop another person from hijacking or otherwise seizing unlawful control of an aircraft in flight.

(D) It makes it a Class D felony for a person to enter a secured area of an airport. It makes it a Class A felony for a person to use force or violence to hijack an aircraft in flight. It makes it a Class B felony for a person to commit criminal confinement on an aircraft.

(E) It establishes new restrictions concerning the issuance of commercial driver's licenses and hazardous materials endorsements.

(F) It authorizes the State Police (instead of the Department of Administration) to provide security for state property. It authorizes the Superintendent of State Police to assign a special police employee to serve on a riverboat.

(G) It requires the State Emergency Management Agency to develop a statewide mutual aid program and a statewide mutual aid agreement.

(H) For emergency management and disaster law, it limits the immunities provided to declared disaster emergencies and provides that any immunity granted does not impair products liability claims.

(I) It provides that a vehicle, money, or other assets may be seized if used in the commission of certain offenses IC 35-47 as part of an act of terrorism.

(J) It establishes various requirements and criminal offenses concerning certain regulated explosives or devices. It establishes or enhances various criminal penalties for disorderly conduct on airport premises, use of the identity of another person with the intent to commit terrorism or to obtain a weapon of mass destruction, money laundering with the intent to further terrorism, possession of a weapon of mass destruction with the intent to carry out terrorism, dissemination of a substance with the intent to cause a person to believe that the substance is a weapon of mass destruction, or interruption or impairment of work conducted in a food processing facility.

(K) It repeals: (1) the definition of regulated explosive; (2) the financial responsibility requirements for a

regulated explosive manufacturer; (3) the current statute defining the crime of selling, manufacturing, purchasing, or possessing certain bombs and explosives; and (4) a statute that authorizes the Commissioner of the Department of Administration to issue warrants for the recovery of unlawfully possessed state property.

Effective Date: (Amended) Upon Passage; July 1, 2002.

Explanation of State Expenditures: (Revised) *Counter Terrorism and Security Council:* This council is composed of 15 members. The council is charged with developing a strategy to enhance the state's capacity to prevent and respond to terrorism; develop and periodically review a counterterrorism plan; develop a counterterrorism curriculum for basic police training and advanced inservice training for veteran law enforcement officers; and develop affiliates in each county for coordination and communications purposes. The Council may have an executive director and staff which would be paid from appropriations made by the General Assembly.

Construction Industry Disaster Volunteer Program: The Construction Industry Disaster Volunteer Program would encourage the construction industry to volunteer equipment and personnel during a disaster. The value of the volunteers' time and equipment would potentially reduce state expenditures. A volunteer would be eligible to receive reimbursement of expenses actually incurred for:

1. actual and necessary travel;
2. subsistence;
3. maintenance expenses; and
4. other expenses as approved.

The expenses would be paid from existing revenue sources and would probably be minor.

The state has had 14 major disaster/emergency declarations by the President of the United States over the last 11 years. The state also averages about two emergency/disaster situations annually that are not of sufficient magnitude to receive federal assistance.

State Police Authority: The bill also authorizes the State Police, instead of the Department of Administration, to provide security for state property, including the State Capitol, the State Office Building, State Library, and other property. The State Police are also authorized by the bill to assign these individuals duties as gaming agents under an agreement with the Indiana Gaming Commission.

New Criminal Penalties: The following penalties would be added to the criminal code:

<u>New Offense</u>	<u>Felony Category</u>
Destructive device to definition of arson	C and D
Damage to food processing facility	D
Entry to food processing facility	D
Terroristic deception	C
False reporting	D
Disorderly conduct in an airport	D
Money laundering offenses	C and B
Terroristic mischief	C and B
Criminal confinement on an aircraft	B
Disruption of the operation of an airplane	B
Hijacking an airplane in flight	A

The following table shows the minimum sentence, presumptive sentence, and the maximum sentence that an offender can receive under current law.

<u>Felony Class</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Murder	45 years	55 years	65 years
A	20 years	30 years	50 years
B	6 years	10 years	20 years
C	2 years	4 years	8 years
D	six months	1.5 years	3 years

The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner..

Explanation of State Revenues: (Revised) *Commercial Driver's License Provisions:* The passage of the required examinations and skills tests may affect the number of CDLs issued, but more likely will affect the third-party testers who provide the skills tests for the CDL by potentially reducing the number of tests provided each year.

The current fee for a CDL is \$30, with \$15 deposited into the Motor Vehicle Highway Account, \$14.50 deposited into the State License Branch Fund (which supports the 168 State License Branches throughout the state), and \$0.50 deposited into the BMV Technology Fund (which is used to acquire new technology for the BMV). The current fee for an endorsement is \$20, with \$10 deposited into the Motor Vehicle Highway Account, \$9.50 deposited into the State License Branch Fund, and \$0.50 deposited into the BMV Technology Fund.

The skills tests required for the CDL are conducted by third-party testers. The fee for the skills test cannot exceed \$100, with the fee retained by the person or persons providing the test. In addition, there is a \$25 fee to rent the equipment from the site of the test. Currently, there are 18 contracted third-party testers

throughout the state providing 20,000 skills tests annually.

With regard to the hazardous materials endorsement for the CDL, the American Association of Motor Vehicle Administrators (AAMVA) reports that two states, Illinois and Pennsylvania, are not issuing CDLs with hazardous materials endorsements. Also, New York, Louisiana, and Iowa are waiting for the federal government to publish rules on how the federal law (U.S. Patriot Act of 2001) is to be implemented. This law requires a federal background check.

Bonding Authority: The State Office Building Commission is authorized to issue bonds to finance construction of the communications system infrastructure if it is specifically authorized by the General Assembly.

Asset Seizures: The funds that result from the sale of the seized property would be deposited in the general fund of a local unit of government if the assets were seized by local law enforcement. Otherwise, seized assets would be disbursed as provided under current law.

There are no data to indicate how much property or the value of the property that may be seized under the bill. If assets would have been available for seizure under current law, funds may have been distributed to the state General Fund, local general funds, and the Common School Fund. To the extent that the funds would be distributed only to the local unit's general fund, revenues to the state General Fund and the Common School Fund would be reduced.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for **any** felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Kevin Lewis, American Association of Motor Vehicle Administrators (AAMVA), Indiana Sheriffs Association; Department of Correction; Phil Roberts, State Emergency Management Agency, (317) 232-3834.